Letters concerning the Spirit

and

Charge, &c.

and

Letter to P. M. A.

August 1791.

While I am employed in the ~~important~~ executing Trust committed to me by the House of Representatives, it is, I conceive, my Duty, from Time to Time, to inform them, through you, of the Steps, which I have taken, and of those, which I ~~propose~~ mean to take in order to accomplish the great End, which is ~~proposed~~ in ~~view~~ contemplation.

~~I have~~ From the Records deposited in the Rolls Office I have taken an Account of all the Laws made in Pennsylvania from its first Settlement till the Beginning of the last Session of the Legislature. They are in Number one thousand seven hundred and two.

These Titles I have ~~copied~~ entered into a Book in the Order, ~~generally~~ usually chronological, in which they ~~stand in the Books Records~~ are recorded. On some of them ~~have~~ ~~particularly~~ especially those of an early Date, I have made and minuted Remarks; and have left ample Room for more in the Course of my further Investigations.

~~By entering them regularly into a common Place~~ ~~a common Place~~ ~~another~~ by entering them ~~Book~~ I have also reduced them powers of Subjects into an Alphabetical Order regularly in a Common-Place Book. This Process required Time and Care and a Degree of minute

-rule Drudgery; but it was absolutely ~~necessary~~ requisite to the correct Execution of the Design. How can I make a Digest of the Laws without having all the Laws upon each ~~Subject~~ Head in my View? This View can, in the first Instance, be obtained only by ranging them in an exact Common-Place.

But something more must still be done. To ~~place~~ rank in a correct Edition, the several Laws ~~in the~~ according to their Seniority or to the Order of the Alphabet would, by no means, be correspondent to the enlarged Plan signified by the Resolutions of the House.

It is obvious, and it was certainly expected ~~by the House~~, that, under each Head, the different Regulations, however dispersed, at present, among numerous Laws, should be collected in in the Digest, ~~be reduced to a just Form, and placed~~ in a natural Series, and reduced to a just Form ~~of Correction~~. This I deem an indispensable Part of my Business.

But ~~when~~ the Performance of this indispensable Part ~~shall be pro-~~ ~~formed~~, gives Rise to a new Question ~~parcels out~~. In what Order should the methodised Collections be arranged?

A chronological Order would, from the Nature of

those

+ J. Wan B. 233. 234.

those Collections, be impracticable: An alphabetical Order would be unnatural and unsatisfactory.

The Order of legitimate System is the only one which remains. This Order, therefore, is necessarily brought into my Contemplation. My Contemplation of it has been attended with the just Degree of Diffidence and Solicitude. To form the Mass of our Laws into a Body ~~[illegible]~~ compacted and well proportioned is a Task of no common Magnitude. Arduous as it is, the enlarged Views of the House of Representatives stimulate me to attempt it. In such an Attempt it will not be dishonourable - even to fail.

Of ~~such a~~ the System I have begun to sketch the rough Outlines. In finishing them and in filling them up I mean to avail myself of all the Assistance, which can possibly be derived from every Example set before me: But, at the same Time, I mean to pay implicit Deference to none.

The Acts of the Legislature of Pennsylvania, though very numerous, comprise but a small Proportion of her Laws. The Common Law is a Part, and, by far, the most important

portant Part of ~~the Law of the Land~~ his ~~Code of Jurisprudence~~ System of Jurisprudence. Statute Regulations are intended only for those Cases, comparatively few, in which the Common Law is defective, or to which it is inapplicable: To that Law those Regulations are properly to be considered as a Supplement. A Knowledge of that Law should, ~~therefore~~ for the Reason precede, or, at least, accompany the Study of those Regulations.

"To know what the Common Law was before the "Making of any Statute" says my Lord Coke, in his ~~familiar~~ ~~ly~~ but expressive Manner, "is the very Lock and "Key to set open the Windows of the Statute".

To lay the Statute Laws before one, who ~~is unacquainted~~ ~~with the Common Law~~ ~~a Stranger~~ knows Nothing of the Common Law, amounts frequently to ~~much~~ the same Thing as laying every third or fourth Line of a Deed before one who has never seen the Residue of it.

~~These Observations abundantly shew, that~~ It would therefore be highly ~~useful~~ eligible, that, under each Head ~~and Title~~ of the Statute Law, the Common Law, relating to it, should be introduced and explained.

This

A.

The Constitution of the United States and that of Penn-
the Supreme
sylvania compose ~~a very important Portion~~ of the Law
They contain and they suggest ~~some~~ many of the most ~~important~~ important fundamental Principles of Jurisprudence, and [illegible]
of the Land: ^ and must have a governing ^ Influence
almost every
over ~~many~~ other Parts of our legal System. They should,
^^ pursued through
therefore, ~~be~~ ~~explained~~ and ~~and~~ ~~[illegible]~~ ~~in~~ the clearest numerous and important widely diffused
should be ~~traced~~ to their ~~[illegible]~~ ~~important~~ though remote ~~Consequences~~ Effects
and ~~in~~ most distinct
~~and~~ ~~fullest~~ Manner. Hence it is proper ^ that they also
attended
should be ~~accompanied~~ with a Commentary.

This would ~~serve the double Purpose of~~ be a useful Commentary on the Text of the Statute Law and ~~of~~ would, at the same Time, form a ~~Digest~~ Body of the common Law ~~formed~~ reduced into a regular System.

With such a Commentary ~~He ably Intended, that~~ the Digest which I will have the Honour of reporting to the House ~~should shall~~ will be accompanied ~~with such a Commentary.~~ A.

These Commentaries ~~I~~ will not, however, form a Part of my Report: ~~I~~ They must stand or fall by their own Merit or Insignificance.

Another Question, of very considerable Importance has occurred to me: The Result of my Reflections upon it, I beg Leave to lay before the House.

In what Manner should the Digest of the Laws of Pennsylvania be composed — Should it imitate the Style of the British Acts of Parliament and those Statutes, which have been ~~formed upon~~ drawn after passed upon their Model — Or should it be written in the usual Forms of Composition?

To

+ 4. Inv. 239. 240.
Hale. 87. 89. 7. 14.

7.4 H. 69. 74.

* Her. 170.

To professional gentlemen it is well known, that, in England, ~~the ancient Statutes were delivered and expressed in the Name of the King~~ Person all Bills were anciently drawn in the Form of Petitions; that these Petitions with the Kings Answer were entered upon the Parliament Rolls; and that, at the End of each Parliament, they were reduced into Statutes by the Judges ~~reduced them into the Form of Statutes~~. Hence the Form ~~in the English Statutes~~ "May it please your Majesty that it may be enacted, and be it enacted &c." This Form, like many others, has been continued in England long after the Reason of it has ceased. This Form, like many others, has been introduced into the Colonies, and, among ~~others~~ the rest, into Pennsylvania, where the Reason of it never existed. Thus almost every Sentence in our Acts of Assembly begins with a "Be it enacted."

This Form, ~~therefore, is in Pennsylvania~~ though in Pennsylva. without Foundation; ~~but~~ it is not, however, without its Inconveniences.

To introduce every Sentence under the Government of a Verb gives a Stiffness — to introduce every Sentence under the Government of the same Verb gives a Mo-

— notony

+ N.º 60.

"Cir. de leg. 6.2.a.23.

notony as well as stiffness to the composition. To avoid the frequent Reiteration of these Blemishes, the sentences are lengthened. By being lengthened, they ~~[illegible]~~ are crowded with multifarious, sometimes with heterogeneous and disjointed Circumstances and Materials. Hence the obscure and ~~ambiguous~~ confused embarrassed Texture of a Mole, with which the Statute Books are ~~burthened~~ loaded and disgraced.

But Simplicity and Plainness and Precision should mark the Texture ~~ought to be the Character~~ of a Law. It claims the Obedience; It should be level to the Understanding of all.

By the first Assembly of Pennsylvania an Act was made "for teaching the Laws in the Schools." This noble Regulation is countenanced by the Authority and Example of the most enlightened ~~Men and~~ Nations and Men.

Cicero informs us that when he was a Boy, the Laws of the twelve Tables were learned "et necessarium carmen," as a Piece of Composition at once necessary and entertaining

~~We are told, that, in China, they spend their whole~~

~~Youth~~

+ Mont. 6. 19. 1. 17.

" 2. Jay. 81.

* Would any one select such a Composition to form the Taste of his Son, or to inspire him with a Relish for literary Accomplishments?

Youth in learning their Religion ~~and~~ Laws and Manners and Customs, and their ~~whole~~ Life in their Practice.

The celebrated Legislator of the Cretans used all the Precautions, which human Prudence could suggest, to impress the Youth with the greatest Respect and Attachment ~~for~~ to the Maxims and Customs of the State. This was what Plato found most admirable in the Laws of Menos.

~~But~~ If Youth should be educated in the ~~Study~~ Knowledge and Love of the Laws; it follows, that the Laws should be proper Objects of their Attachment, and proper Subjects of their Study. ~~Would any one be asked a Whole~~ Can the Wisdom be said concerning a Statute drawn up in the usual Stile and Form, ~~accomplish his valuable purpose~~ Book, ~~to form his Soul Tender or to convince a Rebel of~~ It has been remarked, with ~~Education~~ ~~Thus~~ Truth as well as Wit, ~~in the Observation~~ that one of the ~~severest~~ most irksome Penalties, which could be inflicted by ~~Bodies Statutes could inflict~~ Act of Parliament, would be to compel the Culprit to read the Statutes at large.

But the Knowledge of the Laws, ~~though~~ respect to Youth, is incumbent on those of riper Years.

From

From the Manner in which other Law Books as well as Statute Laws are usually written, it may be supposed that Law is, in its Nature, unsusceptible of the same Simplicity and Clearness as the other Sciences.

It is high Time that ~~the Science of~~ Law should be rescued from this ~~unfavourable~~ injurious Imputation. ~~Law, like the other Sciences, has suffered by the Subtlety of the dark and idolatrous Ages and false Refinement. It should now, like the other Sciences,~~ it should now enjoy the Advantages of Light ~~and Knowledge~~, which have resulted from the Resurrection of Letters; for like the other Sciences, it has suffered extremely from the Mysterious the thick Veil of spread over it in the dark and scholastic Ages.

Both the Divinity and Law of those Times, says Sir William Blackstone, were filtered into logical Definitions, and drawn out into metaphysical Subtleties, with a Skill most amazingly artificial; ~~but which serves no other Purpose than to show the vast Powers of the human Intellect, however vainly or preposterously~~ employed

To the same Purpose speaks the intelligent Mr Locke — "This Mischief has invaded the great Concernments of human Life and Society, obscured and perplexed the unalterable Rules of Law and Duty, brought Confusion, Disorder and Uncertainty into the Affairs of Mankind; and if not destroyed, yet in a great Measure rendered useless those two great Rules, Religion and Justice." — How did comes it to pass that Princes, speaking or writing to their Servants, in their ordinary Commands, are easily understood; speaking to their People in their Laws, are not so? Locke U. b. 3. c. 10. s. 12.

+ 4. Bl. 410.
2. Bl. 58.

Rud. E. 127. 128.

A B. War. B. 330. 331.

Peculiar Reason for this, when Laws (as Languages) are formed out of the Ruins of former Systems. Cond. 287. 289. 290. 291.

= Bee. c. 29.

~~employed. Hence~~ Law in particular, which (being intended for universal Reception) ought to be a plain Rule of Action, became a Scene of the greatest Intricacy; especially when blended with the new and opposite Refinements engrafted upon feudal Property: which Refinements were from Time to Time gradually introduced by the Norman Practitioners, with a View to supersede (as they did in a great Measure) the ~~more~~ homely, but the more pure and intelligible Maxims of distributive Justice among the Saxons.

As were the ~~laws of the~~ Domestic and the Law, such ~~were~~ likewise was the Philosophy of the Schools ~~of Europe~~ during many Ages of Darkness and Barbarism. It was fruitful of Words, but barren of Works, and admirably contrived for drawing a Veil over human Ignorance, and putting a Stop to the Progress of Knowledge. But at last the Light began to dawn ~~at last~~.

~~The Light, however~~ It has dawned, however slower, much ~~later~~ upon ~~the Science of~~ Law than upon Religion or Philosophy. ~~Custom and~~ The Laws, says the celebrated Beccaria, are always several Ages behind the actual Improvement of the Nation, which they govern.

+ 4. Bl. 3.
5. War. B. 125.

+ 2. War. B. 153. 154.

" Mont. 6. 12. c. 2.

If this Observation is true, and I believe it to be true, with Regard to Law in general; it is peculiarly true, and its Truth is of peculiar Importance with Regard to <u>criminal</u> Law in particular.

It is the Observation of Sir William Blackstone, that, in every Country of Europe, the criminal is more rude and imperfect than the civil Law.

~~It is really~~ Unfortunate, it is that this should be the Case, on the Excellence of the criminal Law for the Liberty and Happiness of the Citizens chiefly depend ~~chiefly~~ ~~on the Excellence of the criminal Law~~

~~The Knowledge, says~~ We are told by Montesquieu, that the Knowledge with Regard to the civil Rules, ~~which can be~~ observed in criminal Judgments, is more interesting to Mankind than any other Thing in the Universe. ~~It~~ We are told by him further, that Liberty can be founded only on the Practice of this Knowledge

But how can this Knowledge be acquired - how can it become the Foundation of Practice, of the Laws and particularly the criminal Laws are written in ~~such~~ a ~~language or in such a~~ Manner in which ~~that~~ they cannot be clearly known or understood?

Deeply

+ 2. War. B. 326. 327.

Deeply penetrated with the Truth and the Force of these Remarks, which are supported by the most respectable Authorities, I shall not justly incur the Censure of Innovation, if I express my Opinion, that the Laws should be written in the same Manner, which we use, when we write ~~concerning~~ on other Subjects or Sciences. This Manner has been already adopted with ~~fully~~ in the Constitution of the United States and in that of ~~Pennsylvania; there is, yet, other Respects, a great Improvement.~~ Pennsylvania. As, however, the Observations, which I have made and quoted, bear particularly upon the criminal Code; I propose to make, I ~~shall~~, in that Code, ~~make~~ the first Experiment of their Justness and Efficacy.

The Criminal ~~Code~~ Law, though the most important, is by far the least voluminous Part of the System; and it can be easily ~~drawn~~ formed ~~into~~ into a separate Report. This I mean to do. By doing so, I shall ~~be furnished with~~ have a fair Opportunity of exhibiting a Specimen of the Manner and the Merits both of my Plan and of its Execution

The Constitution of the United States and that of Pennsylvania compose a very important

Portion

Part of the Law of the Land; and must have a govern-
-ing Influence over many other Parts of our Legal System.
They ought, consequently, to be explained and understood
in the clearest and fullest Manner. This shews it to be
proper that they, likewise, should be accompanied with a
Commentary. ~~This~~ It, however, will be no Part of my for-
-mal Report.

11th Jany 1792.

Sir

The Digest of the Laws of Pennsylvania has occupied my sedulous Attention since I last had the Honour of writing to you on the Subject. My Progress in the Business has not, I think, been inconsiderable; but I have not yet brought it to such a State as to be ready to report it to the House of Representatives. I will, however, chearfully lay what I have done before any Committee, which the House may be pleased to appoint for examining it

Aug.t 1791.

Gentlemen of the Grand Jury.

The Occasion, on which you are now called to discharge a public Service for your Country, is explained by the following Extract from the Records of the Supreme Court of the United States.

"It appearing from Information of the Attorney General that a certain Eleanor Mc Donald is confined in the Gaol of the City of Philadelphia, charged with an Offence against the Laws of the United States; and that for the Relief as well of the said Eleanor as of such other Persons as may be charged with Offences against the Laws of the United States, it would be expedient that a special Session of the Circuit Court in and for the District of Pennsylvania should be speedily held—

Ordered,

Ordered, that a special Session of a Circuit Court for the Trial of criminal Causes be held at the City of Philadelphia, ~~in~~ and for the District of Pennsylvania on the fifteenth Day of August instant; and that authenticated ~~Copies~~ Copies of this Order be transmitted by the Clerk of this Court to the Judge and to the Clerk of the said District, and to the Attorney for the United States in the said District."

By a Letter from the Judge of the Pennsylvania District it appears that Eleanor McDonald was charged with stealing ten Doubloons from the Master of a Vessel, lying in the Stream of the River Delaware, and within the Jurisdiction of the United States.

Does it comport with the Dignity of Government that ~~so much Notice should be taken by~~ its Court of Supreme Jurisdiction should take so much Notice of a single ~~Individual~~ Person of an offence of the most atrocious or alarming ~~Nature~~ Legal Nature, and of an offence of the most trivial Nature of an Individual

Individual ~~lac~~, who makes her appearance under Cir-
-cumstances not the most favourable? Shall a special
Session of a Parliament Court be held, shall a grand and a Traverse
Jury of the County ~~be summoned~~, and ~~shall~~ all
the Officers of the Court be obliged to give their
Attendance, at that special Session on such an occasion for their
~~for the Relief of a Person in her case,~~
~~present Particularly~~? Yes, Gentlemen, it is for the Honour of Go-
-vernment, that, even on such an occasion, all this should be done. No public
Offence against the Laws is too minute for their ~~Inspection~~ Vigilance or ~~Law~~ Attention:
no Delegen is too insignificant ~~for~~ to become an Object of their ~~Concern~~ Protec-
-tion. ~~It is true that~~ The Person particularly mentioned appears indeed under
a disadvantageous Aspect – she is ~~charged with~~ accused of a Crime –
~~she is confess~~ But let it be remembered that between
the accused and the ~~guilty there~~ guilty, the Distance is sometimes ~~an~~
immense ~~Distance~~. That ~~the same~~ it, for not be ~~the law~~ with Regard so ~~the~~
the present ~~case~~, unfortunate Woman, the Law will ~~not~~ by no Means presume, ~~till~~ before you
and another Jury shall have inscribed Herewith the Seals of
Condemnation. If she is innocent, her Acquittal and Deli-
-verance should approach her with an accelerated Pace.

Let us, for a Moment suppose ~~an~~ the worst – that

the

+ 1.5

she is guilty, and will be convicted, as she ought to be, and punished according to Law. Imprisonment before her Conviction forms no Part of that Punishment. Such Imprisonment, ~~therefore~~, should be as short as Circumstances will possibly admit. Even if guilty, therefore, she is entitled to a speedy Trial.

Besides; if she is guilty, her Conduct has included an Injury as well as a Crime. For that Injury Reparation ought to be made: For that Injury Reparation will be awarded to the Owner ~~of~~ for what has been stolen. On his Account, therefore, Justice ~~has been~~ should be speedily executed. It may be inconvenient for him and for the other Witnesses to be detained long by the Pendency of this Prosecution: For this Reason also it should receive an expeditious Determination.

~~The Regulation~~ It is, of Consequence, ~~in~~ regulated — "That the Circuit Courts shall have Power to hold special Sessions for the Trial of criminal Causes at their Discretion or at the Direction of the Supreme Court

as

+

The Crimes and Offences known to our Laws may be distributed into various Classes. 1. Some of them are aimed against Religion. 2. Others ~~against~~ violate the Law of Nations. 3. Others again infringe the Rights of the State. 4. Others, in fine, attack the Rights of Individuals, in ~~preserving~~ protecting and vindicating which the ~~Tranquility~~ public Peace and Dignity are deeply interested.

These Rights of Individuals are 1. Their ~~Safety~~ personal Security. 2. Their Reputation. 3. Their Property. 4. L.d. Bac. 56.

+ 1. 16.

+ As the Prosecutor for the United States has no other Business to lay before except the Charge against this unfortunate Woman; it will not be necessary for him to direct your Attention particularly to any other Crime than that ~~of larceny~~ with which she is charged. It is a Crime against the Rights of an individual to his Property

If any Person, says the Law of the United States, within any of the Places under the sole and exclusive Jurisdiction of the United States, or upon the high Seas, shall take and carry away, ~~to~~ with an Intent to steal ~~and~~ or purloin the personal goods of another, the Person ~~or~~ Persons so offending shall, on Conviction, be fined not exceeding the fourfold Value of the Property so stolen or purloined, the one Moiety to be paid to the Owner of the Goods, and the other Moiety to the Informer and Prosecutor, and be publicly whipped not exceeding thirty nine Stripes.

The Goods of another! And what made them his? Were they his, merely because he was in Possession of them? If so; they are now mine; precisely for the same Reason. Were they

they his because they were more serviceable to him than they ~~would~~ can be to me? It is highly probable that I have more Occasion for them than he has? Were they his, because of his ~~superior~~ strong Attachment to them? The Strength of my Attachment ~~appears~~ is evinced by the Reason I have given in order to obtain them. Such ~~Lures~~ Suggestions ~~bows~~ might be ~~proposed~~ offered on the Part of the Prisoner. They necessarily lead us to consider the ~~Principles and Reasons of Property~~ Principles and Reasons of Exclusive Property is established and protected: For it must be ~~admitted~~ avowed, and that the Laws concerning Larceny are all founded, of the Laws concerning Property are without Foundation.

From the Republic of Plato and from the Utopia of Sir Thomas Moore the Rights of separate Property were entirely excluded. Attempts to establish a Community of Goods have ~~existed~~ existed rather than succeeded in some small Societies, distinguished by peculiar Circumstances, peculiar Tenets or peculiar Manners; and even the Existence of such Attempts may, perhaps, be ascribed, in a great

great Measure, to the diffusive Influence of the Habits and Maxims of ~~collective~~ separate Property prevailing around them.

In the ~~first~~ early Settlement of America, two Experiments ~~were made~~ on the Operation and Effects of a Community of Goods. The first was made in Virginia. ~~It~~ The Institution ~~and Order~~ was given to the Colonists — that during five Years next after their Landing, they should trade jointly — that the ~~good~~ Produce of their joint Industry should be deposited in a common Magazine — and that, from this common Magazine, every one should be supplied under the ~~Contract and~~ Direction of the Council. What were the Consequences? I relate them in the Words of the Historian of Virginia.

"And now the English began to find the Mistake of forbidding and preventing private Property; for whilst they all laboured jointly together, and were fed out of the common Store, happy was he that could slip from his Labour, or slubber over his Work in any Manner. Neither had they any Concern about the Encrease, presuming, however the Crop prospered, that the public Store must maintain them. Even the most honest

and

+ Stell. 39.

* Chal. 89. 90.

and industrious would scarcely take so much true Pains in a Week, as they would have done for themselves in a Day.

The second Experiment was made in the Colony of New. Plymouth. During several Years, all Commerce was carried on, in one joint Stock. All Things were common to all; and the Necessaries of Life were daily distributed to every one from the public Store. But these Regulations soon furnished abundant Reasons for Complaint, and proved most fertile Sources of common Calamity. The Colonists were sometimes in Danger of starving; and severe Whipping, which was often administered to promote Labour, was only productive of constant and general Discontent. This absurd Policy, ~~however honoured by the Recommendation of eminent Theorists~~, became, ~~in Practice~~ at last, apparent to every one; and the Introduction of exclusive Property immediately produced the most comfortable Change in the Colony, by engaging the Affections and invigorating the Pursuits of its Inhabitants.

The

X

Exclusive Property prevents ~~Conflicts~~ Disorder and preserves Peace. Without its Establishment, the Tranquillity of Society would be perpetually disturbed by ~~the frequent~~ furious and ungovernable Competitions ~~concerning~~ for the Possession and Enjoyment of Things, insufficient to satisfy ~~the distempered Appetites of~~ all, and ~~adjusted~~ by no Rules of Adjustment distributed to each.

The Rights of separate Property seem to be founded in the Nature of Men and Things; and when Societies become numerous, the Establishment of that Right is ~~exclusive Property~~ ~~[illegible]~~ highly important ~~to the~~ to the Existence, to the Tranquillity, ~~to the Comfort~~, to the Convenience, ~~to the Elegance~~, to the Elegance, to the Refinements and to the Values of civilized Life.

Man is ~~formed~~ intended for Action: Industry is the Soul of an active Life. But Industry should have its Reward. That Reward is Property, for ~~Property~~ ~~the natural Result of the Operations of Labour~~ of useful and skilful Industry Property is the natural Result.

Exclusive Property multiplies the Productions of the Earth, and the Means of Subsistence. Who would ~~cultivate~~ cultivate the Soil and sow the Grain, if he had no peculiar Interest in the Harvest? Who would rear and tend Flocks and Herds if they were to be taken from him by the first Person who should come to demand them?

By exclusive Property, the Productions of the Earth and the Means of Subsistence are secured and preserved as well as multiplied. What belongs to no one is wasted by every one. What belongs to one Man in particular becomes an Object of his ~~Attention~~ Oeconomy and Care.

+ The Conveniences of Life depend much on exclusive Property. Distinct Professions and the Division

of Labour are ~~essential~~ necessary to the complete Energy and Result. But Labour cannot be divided, and distinct Professions cannot be pursued, unless the Productions of one Profession and of one Kind of Labour can be exchanged for those of another. This Exchange implies a separate Property in ~~each of the~~ those who are Parties to it. There

There Observations concerning the Conveniences of Life may be made, with equal ~~Propriety~~ Justness, concerning the Elegancies and Refinements.

~~But on Property much more depends than the what has been yet mentioned.~~ On Property some of the Virtues ~~of Life~~ depend for their free and enlarged Exercise. ~~What~~ Would the same Room ~~would there~~ be left for the benevolent Indulgence of ~~Charity~~ Generosity and Beneficence — Would the same ~~What~~ Room ~~would there~~ be left for the becoming Returns of ~~gratitude~~ Esteem ~~Respect~~ social and gratitude of the Goods if the various Situations and Relations of Life ~~[illegible]~~ lay in ~~[illegible]~~ unappropriated ~~[illegible]~~ of Fortune ~~[illegible]~~ differed ~~[illegible]~~?

If separate Property is so essential to the best

Interests

Intercourse of ~~Law~~ civilized Society; it must be of primary importance that it should be established and ascertained; and it must be of equal importance that it should be guarded and protected ~~for the most effectual Measures for guarding and protecting it should be pursued~~ by the Law of the Land.

These ~~Security of Property is one~~ indeed are among the principal ~~great~~ Objects of Government: ~~The Violations~~ Gross and Felonious Infractions of it Property are therefore justly ~~considered~~ viewed not only as private Injuries but also as public Crimes. As such, it is the Duty and it is the Praise of Government to be vigilant and vigorous in preventing, and, if they cannot be prevented, in punishing ~~them~~ such Infractions

~~We have the Pleasure of discovering that~~ By the Proceedings of this Court, of Part of which you are Witnesses, and in Part of which you are Actors, you have the Pleasure of knowing and discovering that, ~~under~~ by the Government of the United States, Property is ~~protected~~ protected ~~on Land~~ on Water as well as on the Land; ~~in the~~ that the ~~powerful~~ Arm of the Law reaches to the remotest Parts ~~United~~ of the trackless Ocean as well as to the Body of the ancient and most populous County; and that the most expeditious and

effectual

effectual Measures ~~will be~~ are and will be taken to detect and to ~~punish~~ charge any ~~Infraction~~ Violation of the widely extended Protection.

~~Though~~ I have confined my Remarks particularly to the Business which will be laid before you by the Prosecutor for the United States; yet, if any other Crimes or Offences, cognizable in this Court, come to your Knowledge, it is your Duty then to present; for you will observe that the Court is authorised generally to try criminal Causes.

31st Decem.r 1791.

By the House of Representatives of Pennsylvania I am empowered "to digest into proper Order and Form the Laws of that Commonwealth; and "to report such Alterations, Additions and Improvements as the Principles and Forms of the Constitution may require."

In this Work I have made some Progress; during which it has occurred to me, that a similar Work with Regard to the Laws of the United States might, with much Propriety, accompany that, in which I am engaged.

To you, Sir, ~~it would be altogether superfluous~~ it is unnecessary to make ~~It is unnecessary for me to say any thing~~ any general Remarks concerning the immense Importance of a good Code of municipal Law.

Then

There are ~~seven~~ two Circumstances which in-
duce me to think, that to the United States
this Subject is peculiarly interesting

1. Their ~~Constitution and~~ Government
~~are~~ is newly formed and organised. A good Sys-
tem of ~~Laws~~ Legislation introduced into it now will have
a salutary, ~~and~~ a durable ~~Influence~~ and a per-
manent Influence upon its future Fortunes
and Character. That State, says a great Mas-
ter in Politics, may justly be deemed fortu-
nate, which has such Laws at first as
need not ~~afterwards~~ be new modelled ~~anew~~
afterwards. Good Principles, at least, — Principles
congenial to those of the Constitution — should
be ~~established~~ laid below as the Foundation of ~~the Laws~~ subsequent Regulations

2. It is of much ~~Importance~~ Moment that those
Principles

which it must be determined should be clearly and explicitly known before ~~[illegible]~~ it arises.

A.

I have intimated my Opinion that a Digest of the Laws of the United States might, with Propriety, accompany that of the Laws of Pennsylvania. This Opinion is grounded on the following Reasons.

1. In the latter Digest the difficult and delicate Line of Authority, which I have mentioned, must be run; and the Country lying on the Side of the Commonwealth must be explored and delineated. Can there be a fitter Occasion for exploring and delineating the Country which lies on the Side of the United States? To ~~determine~~ explore and delineate the

Country

A. To the happy ~~Accomplishment~~ Atchievment of such a Revolution as that of the United States, the foregoing Observations are applicable with a ~~Advantage~~ Force uncommonly striking and powerful

County on both Sides is, perhaps, the best Mode of discovering and ascertaining with Accuracy the different Directions which the Line ought to take. From one employed to do this Business on both Sides, Impartiality as well as Accuracy might be reasonably expected.

2. There is a peculiar Propriety in running this Line between the Government of the United States and that of Pennsylvania. ~~The Constitution of Pennsylvania has been formed~~ Since the Establishment of the Constitution ~~Foundation~~ of ~~that~~ of the United States, ~~the Constitution~~ that of Pennsylvania has been made. With an express and avowed Reference to ~~the the United~~ the Constitution of the United States, ~~so far as it could apply~~, that of Pennsylvania ~~sedulously and avowed~~ has been ~~formed~~ sedulously framed ~~and avowed~~ ~~specifically~~. It is probable, therefore, that the Directions, which the Line, abovementioned, ought

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ought to take, may be traced with a satisfac-
-tory Degree of Clearness as well as of Precision
~~and Comfortability~~; ~~It is probable~~ and that neither
Vacancies nor Interferences ~~would~~ will be found
between the Limits of the two Jurisdictions.
For it is material to observe, that both Juris-
-dictions together compose, or ought to compose
only one uniform and comprehensive System
of Government and Laws.

In what follows I must ~~necessarily~~ speak
concerning myself. I shall speak, ~~however~~, with
Freedom and with Candour, ~~for~~ I speak to a
Friend as well as to a Judge.

If you think, that, ~~such a Digest as I have~~
~~mentioned would be eligible, and that~~ at a pro-
-per Term, it ought to be ~~proposed~~ "recommended" by you to the ~~two~~
national Legislature, or the ~~two~~ which compose it Houses, to an

- thorse

~~my~~ on to ~~prepare~~ prepare for their Consideration;
these ~~undertaken~~, such a Digest, They inquired ~~[illegible]~~;
I declare my Willingness, nay, my Desire to un-
dertake it. — I know that I am unequal to the
~~arduous~~ Task: I know that, in ~~the~~ performing it,
I ~~should~~ would not be able to ~~reach~~ attain unto that Degree of
Excellence, of which I myself can form an Idea.

My Offer ~~is founded~~ proceeds from on the ~~[illegible]~~ fol-
lowing Considerations — In the Formation of both
Constitutions — that of U. S. and that of P. — I ~~[illegible]~~ took
a faithful and an assiduous Part. So far, therefore,
as my Abilities can ~~[illegible]~~ reach I may be supposed
and the various Relations and Dependencies which their Prin-
-ciples and their Consequences ought to produce in ~~all~~ the different Parts of Gov-
-ernment to know their Principles and their Connexion — In
the ~~Study~~ and in the Practice too of Law and Po-
-litics I have been engaged for a Time considera-
-bly long, and on a Scale considerably extensive
— I am already employed in executing an Part
of ~~which~~ the ~~general~~ great Plan. If I can com-
-mand

-mand a tolerable share of success in that Part;
I can command an equal share in the other also.
Nay, ~~farther~~; I believe that both Parts can be
executed ~~better~~ together better than either Part can
be executed separately. — Permit me, farther to ~~offer~~ suggest,
that the my Deficiencies in Point of Abilities
would, in some Degree, be compensated by
the Ardour of my Inclination to acquit my-
-self as well as possible in a Trust so ho-
-nourable and so important. This Ardour, be-
-lieve me, would be greatly increased as well as gratified
by executing this important and honourable
Trust under your Auspices and during your
Administration; from which every Thing connect-
-ed with themselves ~~derives an additional~~ receive and reflect Lustre

Sir

Sir

Agreably to what you mentioned when I had the Honour of an Interview with you, I ~~enclose you the~~ have reduced to Writing my Sentiments concerning a Digest of Laws for the United States. I enclose also, ~~for your Perusal~~, the Copy of a Letter which I wrote to the Speaker of the House of Representatives of Pennsylvania, ~~concerning~~ This shews the Manner, in which, ~~I think~~ a Digest of Laws ought, in my Opinion, to be executed. Any farther Explanation that may be necessary I will chearfully give.

Letters concerning the Ogpu
and
Charge of No 9
and
Letter to P. M. J.